

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

CARL G. LINDSEY,

Petitioner,

v.

CHARLOTTE JENKINS, Warden,

Case No. 1:03-cv-702  
JUDGE EDMUND A. SARGUS, JR.  
Magistrate Judge Elizabeth P. Deavers

Respondent.

**ORDER**

Petitioner, a prisoner sentenced to death by the State of Ohio, has pending before this Court a habeas corpus action pursuant to 28 U.S.C. § 2254. This matter is before the Court for consideration of Petitioner's Motion to Vacate the Current Scheduling Order to File an Amended Traverse and Permit Filing of an Amended Petition by August 7, 2015. (ECF No. 129.)

Pursuant to the Court's June 10, 2015 order, Petitioner has until and including July 31, 2015 to file an Amended Traverse. (ECF No. 128.) In light of Respondent's intention to oppose the instant motion (ECF No. 129, at Page ID # 1831), the immediacy of the deadline, the promulgation of amendments to Ohio's execution protocol on June 29, 2015 (Case No. 2:11-cv-1016, ECF No. 521, Notice of Revised 01-COM-11 dated June 29, 2015), and the decision of the United States Supreme Court in *Glossip v. Gross*, No. 14-7955, 2015 WL 2473454 (U.S. Jun. 29, 2015), the Court **VACATES** the June 10, 2015 order giving Petitioner until and including July 31, 2015 to file his Amended Traverse.

Petitioner states in the instant motion that he "will file a Fourth Amended and Supplemental Petition no later than August 7, 2015." (ECF No. 129, at Page ID # 1831.) The

Court construes that as a motion for leave to amend and **DENIES** it on the ground that it references a superseded execution protocol, to wit: the protocol dated January 9, 2015.

Petitioner shall have until and including August 7, 2015 to file a new motion for *leave* to amend his petition, accompanied by a complete proposed amended petition. In the memorandum in support, Petitioner must address the impact of *Glossip* on the Sixth Circuit precedent upon which this Court has continually relied for authority to allow method-of-execution claims to be litigated in habeas corpus: specifically, *Adams v. Bradshaw*, 644 F.3d 481 (6th Cir. 2011).

**IT IS SO ORDERED.**

*MSJ* 7-10-2015  
EDMUND A. SARGUS, JR.  
United States District Judge